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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 RICHARD D. CASITY,

12 Plaintiff,

13 v.

14 MARTIN, et al.,

15 Defendants.
16

No. 2:22-CV-2133-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. Pending before the Court is Plaintiff's complaint, ECF No. 1.

19 The Court is required to screen complaints brought by prisoners seeking relief
20 against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C.
21 § 1915A(a). This provision also applies if the plaintiff was incarcerated at the time the action was
22 initiated even if the litigant was subsequently released from custody. See Olivas v. Nevada ex rel.
23 Dep't of Corr., 856 F.3d 1281, 1282 (9th Cir. 2017). The Court must dismiss a complaint or
24 portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can
25 be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See
26 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that
27 complaints contain a “. . . short and plain statement of the claim showing that the pleader is
28 entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply,

1 concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to
2 Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice
3 of the plaintiff's claim and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121,
4 1129 (9th Cir. 1996). Because Plaintiff must allege with at least some degree of particularity
5 overt acts by specific defendants which support the claims, vague and conclusory allegations fail
6 to satisfy this standard. Additionally, it is impossible for the Court to conduct the screening
7 required by law when the allegations are vague and conclusory.

8 Plaintiff names the following as defendants: (1) Martin, a Captain at the Amador
9 County Jail; and (2) A. Stone, a Lieutenant at the Amador County Jail. See ECF No. 1, pg. 2.
10 Plaintiff asserts two claims.

11 In his first claim, Plaintiff alleges that he is disabled, uses a walker, and has had
12 recent surgeries on his left knee, left arm, and left shoulder. See id. at 3. He also states that he
13 takes medication for "bad liver and kidneys." Id. According to Plaintiff, his repeated requests for
14 extra mattresses has been denied. See id. He also claims that he cannot get his walker through
15 doors. See id. Plaintiff contends the jail does not provide reasonable accommodations for the
16 disabled. See id.

17 In his second claim, Plaintiff claims that he has not been provided a Kosher diet
18 despite repeated requests. See id. at 4. Plaintiff says there are no religious programs at the jail.
19 See id.

20 To state a claim under 42 U.S.C. § 1983, the plaintiff must allege an actual
21 connection or link between the actions of the named defendants and the alleged deprivations. See
22 Monell v. Dep't of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362 (1976). "A
23 person 'subjects' another to the deprivation of a constitutional right, within the meaning of
24 § 1983, if he does an affirmative act, participates in another's affirmative acts, or omits to perform
25 an act which he is legally required to do that causes the deprivation of which complaint is made."
26 Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978). Vague and conclusory allegations
27 concerning the involvement of official personnel in civil rights violations are not sufficient. See
28 Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982). Rather, the plaintiff must set forth

1 specific facts as to each individual defendant's causal role in the alleged constitutional
2 deprivation. See Leer v. Murphy, 844 F.2d 628, 634 (9th Cir. 1988).

3 The Court finds that Plaintiff's complaint suffers from one fatal flaw at this stage.
4 Specifically, Plaintiff has not explained how either individual named defendant – Martin or
5 Stone – participated in the alleged denial of constitutional rights.

6 Because it is possible that the deficiencies identified in this order may be cured by
7 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire
8 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is
9 informed that, as a general rule, an amended complaint supersedes the original complaint. See
10 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to
11 amend, all claims alleged in the original complaint which are not alleged in the amended
12 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if
13 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make
14 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be
15 complete in itself without reference to any prior pleading. See id.

16 If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the
17 conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See
18 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how
19 each named defendant is involved, and must set forth some affirmative link or connection
20 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d
21 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

22 Finally, Plaintiff is warned that failure to file an amended complaint within the
23 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at
24 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply
25 with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b).
26 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

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Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's complaint is dismissed with leave to amend; and
2. Plaintiff shall file a first amended complaint within 30 days of the date of service of this order.

Dated: January 24, 2023



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE